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magazine. *Held*, as a matter of law, the powder magazine was not a nuisance, and hence that the plaintiff could not recover, without proving negligence on the part of the defendant.

The keeping of the explosives in certain places and under certain conditions may be a nuisance per se... *Cheatham v. Shearon*, 1 Swan. 213; *Laflin-Rand Powder Co. v. Tearney*, 23 N. E. 389 (Ill.). The present case is extraordinary in that the question of the existence of a nuisance was not left to the jury. *Heeg v. Licht*, 80 N. Y. 579; *Prussak v. Hutton*, 30 N. Y. App. Div. 66.

PARTIES—JUDICIAL SALE—SETTING ASIDE DEED—CHILLING BIDDING—LIMITATIONS.—*TOOLE v. JOHNSON*, 39 S. E. Rep. 254. (S. C.).—At a sale under execution, an attorney made the announcement that he hoped nobody would bid against his client, who would bid the amount of the judgment, and buy in the land for the children of the decedent. *Held*, that the statute began to run against a person seeking to set aside the sale because of chilling the bidding from the time of the discovery of the fraud.

Fraud without concealment is not sufficient. 13 *Am. & Eng. Enc. Law*, 729. *State v. Furlong*, 60 Miss. 839. The court does not follow these cases, but holds that the provision of the Code—"any action for relief on the ground of fraud is not to be deemed to have occurred until the discovery by the aggrieved party of the facts constituting the fraud"—is to be construed literally, and that there is nothing in the provision to limit its application to secret frauds.

POLICE REGULATION—DOMESTIC ANIMALS.—*SIFERS v. JOHNSON*, 65 Pac. 709 (Idaho).—A statute, prohibiting the herding or grazing of sheep within two miles of an inhabited dwelling, is a valid exercise of the police power of the State, and is not unconstitutional. *Stockslager, J., dissenting.*

The court adjudges the statute to be intended to prevent conflicts, resulting from the clash of interest between sheep raising and farming, and also to protect the health of the settlers. This decision seems to extend the police power of a state to great lengths, and almost to sanction the taking of property without due process of law. The judges in this case were governed in rendering their decision by the opinions of Cooley and Tiedeman, regarding the extent of a state's police power. *Cooley's Con. Lin.*, 704-5; *Tiedeman's State & Fed. Control of Per. and Prop.*, 838.

REPLEVIN—CUSTODY OF PROPERTY—SALE BY ONE IN POSSESSION—CONVERSION.—*MOHR v. SANGAN*, 63 S. W. 409 (Mo.).—A plaintiff having acquired possession by replevin, sold the property during the pendency of the suit. *Held*, that such property was in custodia legis, and hence he was liable for conversion.

There appears to be an irreconcilable conflict of authority upon this point. Of the cases which hold that property taken under a writ of replevin remains in custodia legis, even when the possession is delivered to the plaintiff in the suit, he being regarded only as standing as a substitute for the sheriff,